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Maryland Senate Judicial Hearings

Re: HB 40 Condominiums – Disclosures to Unit Owners and Prohibited Provisions in Instruments

Position: SUPPORT WITH AMENDMENTS

Senator Smith and Senator Waldstreicher and Members of the Committee,

My name is Roger Williams. I am the Board President of the Garden Condominium II Association at Sunset Island in Ocean City, MD and along with my wife, the owner of a condo unit there. I fully support legislation that would ban secret agreements between condo board of directors and developers in situations described in the bill.

In prior testimony, I described the construction defects at Sunset Island in Ocean City, MD involving 198 condos and over \$10 MM in repairs at a cost of over \$50,000 per homeowner to fix the water infiltration damage caused by faulty construction. These defects resulted in serious structural damage which if not repaired could have resulted in property damage and possibly even serious injury or death. The terrible incident in Surfside, FL in 2021 is a painful example of how decisions made 30, 40, 50 years ago by boards and developers or builders can have a tragic consequence in the present.

I would like to make just a few additional statements to the committee today.

First, in the case of Sunset Island, the secret release agreement between the then board and the builder was done only when builder conditioned making the repairs on the basis of a release from all existing warranties and any future repairs. In almost all cases, Builders will have many, many orders of magnitude more resources, money, attorneys, etc. than small homeowner associations. A classic David vs. Goliath. Without laws preventing these types of agreements, a volunteer board will almost always succumb to the builder demands because time will not allow protracted negotiations or court battles when repairs loom. Builders full well know the advantages of running out the clock.

A secret agreement not only affects current homeowners but also every future buyer because the agreement will never appear in any disclosure packages or land records leaving the buyer in the dark.

Lastly, from an association board perspective, you have only the board members at the time of the agreement aware of the agreement. However board members come and go and that knowledge cannot be legally transferred to new board members. In our case at Sunset Island when the deficiencies were later discovered, none of the board members who signed the original agreement were still on the board, in fact none currently own condos. None of the subsequent board members knew of the agreement because of the secrecy clause thus preventing the current board from having extremely relevant information on hand to make decisions affecting the well-being of the community.

For your information, I have attached some photos showing the damage to the condos due to the faulty construction.

I ask for the Committee's support of HB40.

Roger Williams

In-process photos of discovery phases



1FDE East Tower, 3rd Floor, East face. (See evidence sample)



4FDE North Tower, Degradation of structural members at all levels



4FDE North Tower, degradation at return walls